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ICTR-98-44-T
31-12-2009
(49243-49222)
**-International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda**

Arusha International Conference Centre
P.O.Box 6016, Arusha, Tanzania - B.P. 6016, Arusha, Tanzanie

49243
A

IN TRIAL CHAMBER III

Before: Hon. Dennis C. M. Byron, Presiding
Hon. Gberdao Gustave Kam
Hon. Vagn Joensen

Registrar: Mr. Adama Dieng

Date Filed: 31 December 2009

JUDICIAL RECORDS ARCHIVES
RECEIVED
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The PROSECUTOR

v.

**Édouard KAREMERA
Mathieu NGRUMPATSE
Joseph NZIRORERA**

Case No. ICTR-98-44-T

**Prosecution's Response to Joseph Nzirorera's
28th Notice of Rule 66(B) Violation**

For the Prosecutor:

Mr. Don Webster
Mr. Saidou N'Dow
Ms. Sunkarie Ballah-Conteh
Mr. Takeh Sendze
Mr. Eric Husketh

For the Accused:

Ms. Dior Diagne and Mr. Moussa Félix Sow *for Édouard Karemera*
Mr. Peter Robinson and Patrick Nimy Mayidika Ngimbi *for Joseph Nzirorera*
Ms. Chantal Hounkpatin and Mr. Frederick Weyl *for Mathieu Ngirumpatse*

1. Joseph Nzirorera made a Rule 66(B) inspection request by his letter to the Prosecutor of 29 October 2009. He later sought to clarify his request in a follow-up letter of 10 December 2009.
2. Initially Nzirorera requested inspection of, "... all documents obtained from the government of Rwanda, its agencies, departments, or subdivisions, or its Gacaca jurisdictions which deal with the following issues which are material to our defence ...", referring to an enumerated list of fourteen subjects. Afterwards, Nzirorera further clarified his request by listing over 80 "events" which should trigger his inspection request if they were mentioned in any documents held by the Prosecution.¹ Nzirorera also indicated that he would have more inspection requests, but that his letter of 29 October 2009 "... will get you [the Prosecution] started."²
3. The Prosecution responded to those letters on 15 December 2009. The entire correspondence is appended hereto in annexure.
4. In order to respond to Nzirorera's recent inspection request the undersigned Senior Trial Attorney met with staff members of the Information and Evidence Support Section (IESS) within the Office of the Prosecutor to assess the feasibility of compliance. After much extended, and repeated, internal discussion, the Office of the Prosecutor has determined that Nzirorera's recent inspection request is impermissively broad and cannot be satisfied. It also bears noting that the Prosecution has already afforded inspection of a large volume of materials over the last seven years, much of which would be duplicated in Nzirorera's recent requests. The Office of the Prosecutor has never resisted applications for inspection from the Defence and remains ready to comply with all reasonably practicable requests when they meet the appropriate legal standard, including the requirement of specificity.
5. To this end, and in order to facilitate and maximize the opportunities for the Defence to access relevant evidentiary materials held by the Prosecution, the Prosecutor has devised an electronic disclosure suite ["EDS"] which permits the Defence to review its IESS database from their home or office workstations. This EDS was initiated to comply with Rule 68(B), but also facilitates inspection under Rule 66(B). It contains folders of materials that are specifically targeted to the *Karemera et al.* trial, including a folder for Rule 66(B) materials. Indeed, despite the impracticable, overly broad inspection request from Nzirorera, the OTP IESS Section made good

¹ See letters of 29 October 2009 and 10 December 2009.

² See letter of 29 October 2009, at p. 2.

faith attempts to satisfy his recent request by posting additional relevant materials to the EDS in the specially marked Rule 66(B) folder.

Prosecutor's Opposition

6. Nzirorera's motion is baseless.

7. First of all, Nzirorera conflates his discussion of the Prosecutor's obligation to disclose exculpatory materials under Rule 68 with his present motion to compel inspection under Rule 66(B). This is inappropriate and confuses the issues. This Tribunal has already clearly articulated the legal standard for alleging violations of Rule 68 disclosure. Nzirorera has not met them. That portion of his motion is simply superfluous and should be disregarded.

8. The Prosecution invited the Lead Defence Counsel for Joseph Nzirorera to schedule an appointment for further discussion of his inspection request with a view to satisfying his request.³ The Nzirorera Defence team has never attempted to do so. Instead, it generated a series of correspondence in order to lay the ground work for its current motion.

9. As clearly stated in the letter that the Prosecution sent to Joseph Nzirorera, the Prosecution will continue to provide copies of certain materials to facilitate inspection, specifically referring to this Chamber's previous decisions of 17 April 2008 and 22 August 2008.⁴ Where the Prosecution affords inspection of "prior statements, judicial records and immigration records" of prospective Defence witnesses, it will do so by providing copies. However, the broad range of recent inspection requests will be satisfied by physical inspection on the premises of the Office of the Prosecutor or through EDS. The Prosecution will not undertake to copy and distribute hundreds of pages of additional materials.

³ See letter from STA Webster to Peter Robinson, dated 15 December 2009, which includes the following final paragraph:

My suggestion is that we schedule a Friday inspection session in our office at your earliest convenience. This will provide us with an opportunity to review your recent written requests of 29 October 2009 and 10 December 2009 and to devise a means of accomplishing the inspection to which you are entitled in a manner that is expeditious and to your satisfaction.

⁴ Ibid, at p.2, text corresponding to fn. 3:

You have already received copies of Rule 66(B) searches for prior statements, judicial records and immigration records of your prospective Defence witnesses, as previously ordered by Trial Chamber III. Any new materials that come into our possession that are subject to disclosure by the terms of Trial Chamber III's orders will be forwarded to you, just as we have done in the past.

10. As the Prosecution indicated in its letter to Nzirorera, this recent inspection request is simply too broad. Instead of delineating discreet *categories of documents*, Nzirorera lists certain *relevant subjects and events*, essentially delineating *substantive information* that he seeks, which he then suggests the Prosecution should search out and provide for him. This is simply impracticable and unwarranted under our jurisprudence. Should this Chamber deem any portion of Nzirorera's inspection request to have merit, the Chamber itself would have to better define its parameters in order to enforce it. Nzirorera's request, as currently articulated, is simply too broad and unspecified.

11. The EDS permits searches to be conducted for recently deposited materials. By filtering the search criteria, Nzirorera may conduct searches in the IESS database for materials that are added after a certain date, in which case his renewed searches can be directed to any recently obtained or deposited documents. This permits Nzirorera to search the OTP IESS database by subject matter, which seems to be his concern, and those searches may be tailored and restricted. In addition, where Nzirorera is able to refine his inspection request to *discreet categories of documents*, the Prosecution will attempt to comply with any reasonably practicable inspection request. That is simply not the case with Nzirorera's current request and motion. Nzirorera's current request does not even attempt to distinguish documents generated contemporaneously with the events of 1990-1994 from witness statements and second and third hand reports of events authored long after 1994 that were provided to the OTP by the Government of Rwanda.

12. Nzirorera also complains that EDS cannot be used to meet the Prosecution's obligations under Rule 66(B) because the Accused will not have direct access to it. This is incorrect. Where materials are deposited in a specially marked Rule 66(B) folder in the EDS, the Defence team may print out those specific materials and review them with the Accused. It is not suggested that the entire IESS database should be printed. Furthermore, where reasonably appropriate requests for inspection are made, the Prosecutor will assist the Defence by affording inspection on the physical premises of its office. Beyond that, the Defence may rely on the EDS.

13. As Nzirorera has not made any effort to schedule an appointment for inspection, his motion is baseless. Since it is wholly without merit, there can be no discussion of remedial measures, including his request for a delay in the resumption of the trial.

WHEREFORE the Prosecution submits that the Trial Chamber should deny Joseph Nzirorera's motion in its entirety.

Respectfully submitted

49239

Dated in Arusha, this 31st day of December 2009

For the Prosecutor:

for: Bianchi, Senior Appeal Counsel
Don Webster
Senior Trial Attorney

49238

ANNEX

Letters from Peter Robinson to STA Webster of 29 October 2009 and 10 December 2009, and STA Webster's response of 15 December 2009

49237

PETER ROBINSON
International Criminal Law
P.O. Box 1844
Santa Rosa, California 95402
(707) 575-0540
(208) 694-6161 (fax)
E-mail: peter@peterrobinson.com

29 October 2009

Mr. Don Webster
Senior Trial Attorney
International Criminal Tribunal for Rwanda
Arusha, Tanzania

Re: *Prosecutor v Joseph Nzirorera*
No. ICTR-98-44-T

Dear Don,

Pursuant to Rule 66(B), I hereby request inspection of the following documents:

All documents obtained from the government of Rwanda, its agencies, departments, or subdivisions, or its Gacaca jurisdictions which deal with the following issues which are material to our defence:

1. The acts and conduct of the Interahamwe in Kigali, Ruhengeri, Gisenyi, or Kibuye prefectures
2. Joseph Nzirorera's knowledge, notice, or responsibility for the acts of the Interahamwe
3. The existence of the Interahamwe in Kigali, Ruhengeri, Gisenyi, and Kibuye prior to the death of President Habyarimana
4. The fabrication of testimony against Joseph Nzirorera or any other ICTR detainee from Ruhengeri prefecture including Juvenal Kajelijeli, Casimir Bizimungu, Augustin Bizimungu, Jerome Bicamumpaka, or Ephrem Setako
5. Benefits offered to or provided to any person who has been listed as a prosecution witness in Mr. Nzirorera's case at any time.
6. Meetings of the MRND in Kigali, Ruhengeri, Gisenyi, or Kibuye at the prefecture or national level from 1992-94.
7. Meetings of any committees of the MRND in Kigali, Ruhengeri, Gisenyi, or Kibuye at the prefecture or communal level from 1992-94
8. Matters pertaining to the civil defence in Kigali, Ruhengeri, Gisenyi, or Kibuye at the national, prefectural or communal level from 1992-94

49236

9. Matters pertaining to military training and distribution of weapons to Interahamwe between 1992-94.
10. Matters pertaining to the MRND's position on the Arusha Accords and the establishment and swearing-in of the BBTG from 1992-94
11. Crimes committed by the RPF in Kigali, Ruhengeri, Gisenyi, or Kibuye during the time those areas were occupied by the Rwandan government in 1992-94.
12. Reports of activities of persons suspected of assisting the RPF in Kigali, Ruhengeri, Gisenyi or Kibuye prefectures between 1 October 1990 and 6 April 1994
13. Reports of security committees at the prefectural and communal level between 1992 and 1994 in Kigali, Ruhengeri, Gisenyi, and Kibuye communes.
14. Reports of all communal bodies in Mukingo commune and all prefectural bodies in Ruhengeri prefecture for the period 1992-94

I will have more requests, but this will get you started.

Thank you for your cooperation.

Respectfully submitted,



PETER ROBINSON

Lead Counsel for Joseph Nzirorera

cc: Judges and parties

49235

PETER ROBINSON
International Criminal Law
P.O. Box 1844
Santa Rosa, California 95402
(707) 575-0540
(208) 694-6161 (fax)
E-mail: peter@peterrobinson.com

10 December 2009

Mr. Don Webster
Senior Trial Attorney
International Criminal Tribunal for Rwanda
Arusha, Tanzania

Re: *Prosecutor v Joseph Nzirorera*
No. ICTR-98-44-T

Dear Don,

I am making a further effort to specify the items which are material to the defence of Joseph Nzirorera so as to be specific enough to trigger your disclosure obligations

Pursuant to Rule 66(B), I hereby request inspection of the following documents:

All documents in which the following events, which are material to our defence, are mentioned:

1. Ruhengeri events

- (A) The meeting at Nzirorera's Mother's House on 7 April
- (B) Mr. Nzirorera Communications with Interahamwe in Mukingo after the death of President Habyarimana
- (C) Juvenal Kajelijeli's Orders to Kill Tutsis in April 1994
- (D) Nzirorera Telephone Calls to Mukingo commune and Busengo sous prefecture in April 1994
- (E) The attack on the Ruhengeri Court of Appeal on 14 April 1994 and the arrest and release of suspected perpetrators that day
- (F) The 6 May 1994 Ruhengeri Pacification Meeting allegedly attended by Mr. Nzirorera
- (G) Juvenal Kajelijeli's Swearing-In Ceremony
- (H) Rapes in Mukingo Commune and Nzirorera's knowledge of them
- (I) The formation and existence of Interahamwe in Mukingo Commune
- (J) Meetings of authorities at Nzirorera's Mother's House between 1992-April 1994

49234

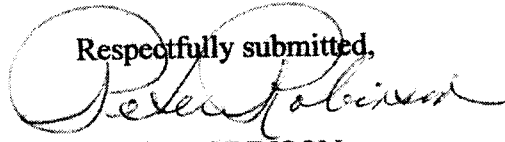
- (K) Founding of the Amahindure, including the timing and identity of those involved in its founding and operation
 - (L) Military Training in Mukingo Commune prior to the death of President Habyarimana
 - (M) Distribution of weapons in Mukingo commune prior to the death of President Habyarimana
 - (N) Distribution of MRND/Interahamwe Uniforms in Mukingo Commune
 - (O) Ownership and use of Isimbi Building in Mukingo commune
 - (P) Nzirorera's Superior Responsibility for Mukingo Events
 - (Q) April 1994 Meeting to Introduce New Prefet to Mukingo
 - (R) Election of Kajelijeli as Bourgmestre of Mukingo
 - (S) Youth of Mukingo actions in attacking Opposition Parties 1992-94
 - (T) Existence and distribution of Interahamwe Membership Cards in Mukingo
 - (U) Responsibility for Attacks on Makoni in Mukingo commune
 - (V) Creation and maintenance of lists of Tutsis in Mukingo to be Killed
 - (W) Financing the Interahamwe of Mukingo including maintenance of bank accounts
 - (X) Attacks Against Tutsis 1991-94 in Mukingo commune
 - (Y) Acts designed to fabricate evidence against Nzirorera in Ruhengeri prison
 - (Z) Witness GBU's rape of Witness GAY
 - (AA) Witness GAV's arrest, judicial case, and dispute with his brother and Juvenal Kajelijeli
2. Kibuye events
- (A) MRND rally in June 1993 at Gatwaro stadium
 - (B) Fabrication of documents and information by Witness BDW
3. National Events
- (A) Meeting of 7 April 1994 with MRND leaders and Colonel Bagosora
 - (B) Formation of Interim Government on 8 April 1994
 - (C) Nzirorera's Orders to and Control over Interahamwe in Kigali between 6 April and 13 July 1994
 - (D) Nzirorera's Meetings with Interahamwe at Diplomat Hotel on 9-12 April 1994
 - (E) Distribution of Weapons to Interahamwe in Kigali on 9-12 April 1994
 - (F) Killings in Kabeza on 7-12 April 1994
 - (G) Meeting of Prefets on 11 April 1994
 - (H) 19 April 1994 Speech of Sindikubabwo in Butare
 - (I) 27 April 1994 Instructions from Prime Minister
 - (J) Meeting in late April at Kigali Prefecture Office attended by Nzirorera, conseillers, and Interahamwe
 - (K) Establishment and operation of national Civil Defence Program after the death of President Habyarimana
 - (L) Rapes and Sexual Assaults in Kigali after the death of President Habyarimana and the responsibility of Nzirorera for that
 - (M) Existence of a Joint Criminal Enterprise to exterminate Tutsis

- (N) Formation and Expansion of the Interahamwe 1992-April 1994
 - (O) Military Training of the Interahamw from Kigali or Kibuye
 - (P) Distribution of Weapons to Interahamwe in Kigali
 - (Q) Composition and maintenance of lists of Tutsis to be Killed in Kigali
 - (R) Fundraising Meeting at Hotel Rebero for Interahamwe in February 1994
 - (S) 23 October 1993 MDR Rally at Nyamirambo Stadium
 - (T) 7 November 1993 MRND Rally at Nyamirambo Stadium
 - (U) 16 January 1994 MRND Rally at Nyamirambo Stadium
 - (V) Establishment of RTLM
 - (W) Identity of those responsible for Assassination of President Habyarimana
 - (X) Security Meetings at Kigali Prefecture Office in April 1994
 - (Y) Alleged 12 April 1994 Incitement at Nyabugogo Roadblock by Nzirorera
 - (Z) April 1994 MRND/Interahamwe Communiques
 - (AA) Presence of Witness HH in Murambi in April 1994
 - (BB) Efforts to Evacuate Refugees from Milles Collines Hotel in April-June 1994
 - (CC) MRND Meetings with Kigali Conseillers in 1992-April 1994
 - (DD) MRND Rally at Rwamagana
 - (EE) January 1994 Allegations by Jean-Pierre Turatsinze
 - (FF) MRND position and attitude on the Arusha Accords 1992-April 1994
 - (GG) MRND Cooperation with Military Plan to Exterminate Tutsis
 - (HH) March 1992 Events in Bugesera
 - (II) 28 May 1992 MRND March and Rally
 - (JJ) MRND/CDR Coalition
 - (KK) 15 November 1992 MRND Rally in Ruhengeri
 - (LL) 22 November 1992 Mugesera Speech at Kabaya
 - (MM) MRND/Interahamwe meetings attended by Ahmed Mbonnyunkiza
 - (NN) Existence of parallel committee of Interahamwe in Kigali 1992-94
 - (OO) Fabrication of evidence and collaboration of testimonies in Kigali central prison
4. Gisenyi Events
- (A) Kabuga Fund Raising Meeting of 25 April 1994
 - (B) Nzirorera Participation in Fundraising Meetings in June 1994
 - (C) October 1993 MRND Rally in Umuganda Stadium
 - (D) Nzirorera at Gisenyi Military Camp after death of President Habyarimana 327
 - (E) Nzirorera Distribution of Weapons in Gisenyi—April-July 1994
 - (F) Nzirorera acquisition of weapons after April 1994 via South Africa
 - (G) Nzirorera whereabouts from 6 April -13 July 1994
 - (H) Meetings at Butotori Camp in 1992-93
 - (I) Nzirorera 1993 Meetings at Meridian Hotel in Gisenyi with Interahamwe
 - (J) Nzirorera 1994 Distribution of Weapons at 42nd Battalion ceremony
 - (K) Witness ZF role in intercepting conversations on 7 April 1994
 - (L) Attacks at Mudende University April 1994

49232

Thank you very much for your cooperation.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Peter Robinson". The signature is written in black ink and is positioned above the printed name.

PETER ROBINSON

Lead Counsel for Joseph Nzirorera

cc: Judges and parties

49231



**International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda**

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15 December 2009

Mr. Peter Robinson
International Criminal Law
P.O. Box 1844
Santa Rosa, California 95402

Via e-mail: peter@peterrobinson.com

JUDICIAL RECORDS/ARCHIVES
UNICTR
2009 DEC 15 P 3:41

Re: *Response to your letters of 29 October 2009 and 10 December 2009 concerning renewed Rule 66(B) inspection requests*

Dear Peter,

I acknowledge receipt of your recent letters, referenced above.

You have provided a very long and detailed list of inspection requests.

Surely you will agree that you have already received an overwhelming amount of material from the Office of the Prosecutor. The scope and volume of the documentation that we have sent to you over the past seven years defies inventory, so expansive have been your numerous requests and our attempts to satisfy them.

In the past we have provided copies of materials. We did so in order to facilitate the process of physical inspection even though our ICTR Rules of Procedure and Evidence do not require that.¹ You will also recall that our IESS Evidence Unit recently enhanced our Electronic Disclosure Suite ["EDS"] in a manner that now permits targeted archiving. Consequently, as I explained in my Inter-office

¹ You may recall that you relied upon two prior Trial Chamber II decisions to motivate your requests for copies of materials subject to inspection in your previous *Motion to for Inspection of Items "Material to the Preparation of the Defence"*, at para. 8, fn 6 (4 December 2002) from the first, aborted *Karemera et al. trial*. The Trial Chamber denied your request at that time and the issue of requiring the OTP to provide copies in addition to, or in lieu of, physical inspection has not been addressed since. See *Prosecutor v Karemera et al*, No. ICTR-98-44-PT, Decision on the Defence Motion for Disclosure of Items Deemed Material to the Defence of the Accused (29 September 2003) at para 15:

"Rule 66(B) affords the defence the right to inspect relevant documents. Upon inspection, the defence may make all the copies of the documents it deems relevant to its preparation. If the prosecutor opposes the copying of specific documents, the defence may seize the Chamber for a ruling on the issue."

Indeed, your reliance on those prior decisions from Trial Chamber II is misplaced. Trial Chamber II merely made reference to "a limited right of the Defence to receive copies of materials" specifically in regard to items for which the Defence had *already* conducted *physical inspection*. See *Ndayambaje* decision of 25 September 2001, at para. 7, as referenced in your previous motion of 4 December 2002.

49230

Memorandum to the Defence teams of 11 May 2009, a segregated collection of materials that may directly pertain to your Defence case has now been placed at your disposal through the EDS.² As a result, you are now able to conduct electronic searches from your home or office workstations in folders that are specifically tailored to the *Karemera et al.* case. In addition to a folder of common documents, we have created a separate folder for targeted inspection under Rule 66(B). You will be able to search the entire collection of non-confidential documents in Zyfind through the EDS common documents. Whenever your requests for inspection under Rule 66(B) are sufficiently particularized, relevant materials will be deposited in a targeted Rule 66(B) inspection folder. For everything else, you may conduct your own searches using whatever search criteria you deem appropriate. You have already received a password that provides access to the website.

In light of the volume of materials that you have already received, and given your capacity to search the IESS EDS database, the *Karemera et al.* Prosecution trial team will discontinue the practice of copying materials and sending them out to you in hard copies or in CD-ROMs. You may access relevant materials for inspection under Rule 66(B) by conducting your own electronic searches of the EDS. Alternatively, you may also conduct physical inspections of relevant materials in our offices on Fridays between the hours of 9:00AM and 1:00 PM. Since Trial Chamber III has agreed that we will not convene on Fridays, this is the most appropriate day of the week to schedule office hours for inspection. One of our team's crime analysts will be assigned to assist you on Fridays, should you elect to come to our office for inspection of documents. It may expedite and enhance the process of inspection if you give us at least 2 days advance notice, with indications of which documents you seek to inspect, whenever you request physical inspection in our offices on Fridays.

The *Karemera et al.* team undertakes to monitor and supplement the IESS EDS folders for our case on a regular basis. Newly discovered materials will be systematically deposited in the EDS, which will make them immediately accessible to you. You have already received copies of Rule 66(B) searches for prior statements, judicial records and immigration records of your prospective Defence witnesses, as previously ordered by Trial Chamber III.³ Any new materials that come into our possession that are subject to disclosure by the terms of Trial Chamber III's orders will be forwarded to you, just as we have done in the past. For all other searches, however, you must rely on the EDS or you may avail yourself of the assistance of our crime analysts during the physical inspections that are conducted in our office.

As for your recent request of 29 October 2009 numbered 1 – 14: the parameters are simply too broad. As a practical matter, you have already received a huge volume of materials. The Office of the Prosecutor is not in a position to duplicate inspection of the broad array of materials that you have already received.

The clarifications that you make in your letter of 10 December 2009 are not very helpful. Your clarifications pertain to "all documents" in OTP's possession, not discrete *categories of documents* that can be segregated. Your "refined" request would still require my team to review all documents in our IESS database to locate the *substantive information* that you deem relevant. You do not even make a distinction between witness statements and reports generated after the events, which are hearsay accounts, from contemporaneously generated documents from 1990-1994, which have independent evidentiary value. You must well realize that OTP investigators have recorded statements from hundreds of witnesses that could fall within the parameters that you have outlined. Your request is, once again, simply too broad. Furthermore, as a practical matter, you have already have access to the bulk of these materials. They are accessible to you through the EDS.

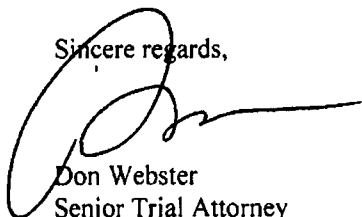
² A copy of that IOM is appended hereto in annexure for ease of reference.

³ Decision on Joseph Nzirorera's Main Motion for Inspection of Defence Witness Information ... (17 April 2008); See also Decision on Joseph Nzirorera's Fourth Motion for Inspection of Defence Witness Information (22 August 2008).

49229

My suggestion is that we schedule a Friday inspection session in our office at your earliest convenience. This will provide us with an opportunity to review your recent written requests of 29 October 2009 and 10 December 2009 and to devise a means of accomplishing the inspection to which you are entitled in a manner that is expeditious and to your satisfaction.

Sincere regards,

A handwritten signature in black ink, appearing to be 'Don Webster', written over the typed name.

Don Webster
Senior Trial Attorney

Cc: Honorable Judges of Trial Chamber III
Constant Hometowu, CMS Legal Officer
Karemera and Ngirumpatse Defence Teams

49228

ANNEXURE

Copy of IOM of 11 May 2009 re: Targeted Rule 68 Disclosure via EDS

49227



**International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda**

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INTEROFFICE MEMORANDUM — MEMORANDUM INTERIEUR

To: All Defence Teams Date: 11 May 2009
 A: *Karemera et al.*
 (Mr. Peter Robinson, and Mmes. Chantal Hounkaptin and Dior Diagne) Ref:

Cc: Constant Hometowu, Legal Officer, CMS
 Karine Ardault, Trial Chamber III Coordinator

From: Don Webster
 De: Senior Trial Attorney / *Karemera et al.*

Subject: **Targeted Rule 68 Disclosure via Electronic Disclosure Suite ["EDS"]**
 Objet:

JUDICIAL
 2009 MAY 11 P 12:08
[Handwritten signature]

Dear Defence Teams:

1. In response to your repeated complaints about incomplete Rule 68 searches and disclosures, the Prosecution has revised its EDS service and has undertaken to create a collection of relevant materials in electronic, searchable form which has been specifically targeted for the *Karemera et al.* case.
2. As you should recall, the Appeal Chamber has held that the Prosecution may use the EDS as a means to convey the materials that must be disclosed to the Defence under Rule 68(A).¹ Each of the Defence teams has already requested a password to access the EDS and has signed the appropriate undertakings that govern access to those electronic folders.² This writing simply serves to inform you that a segregated collection of materials that may directly pertain to your Defence case has now been placed at your disposal.
3. We will continue to convey copies of certain materials, either in hard copy print-outs or by CD-ROM, where they are deemed to be of such importance that they should be brought to your attention in separate filings. For broader swathes of materials that may be relevant, and which are arguably subject to disclosure under Rule 66(B) or Rule 68(B), you may consult the EDS.
4. Should you encounter any difficulty in accessing the targeted EDS, kindly contact my office and I will make arrangements with the IESS unit to assist you.
5. Regards

¹ Prosecutor v. *Karemera et al.* (ICTR-98-44-AR73.7) Decision on Interlocutory Appeal Regarding the Role of the Prosecutor's Electronic Disclosure Suite in Discharging Disclosure Obligations (6 June 2006) at para. 12.

² See copies of EDS Access Application Forms, appended hereto in annexure.

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International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda



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Office of the Prosecutor

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EDS ACCESS
APPLICATION FORM

Applicant Name		Applicant Title and Case Name & No.	
Dior D. MBAYE		Lead Counsel ICTR9844-T	
Applicant Email Address		mediordia@yahoofr mediordia@yahoofr	
Application Date	Contract Expiry Date	Telephone No.	ICTR Room No.
15.01.05		0748581530	S261
Applicant's Bar Association			
Name: Barreau de DARAR Address: Bloc des Madeleines Tel No.: Bar Association Administrator: PAPA MOUSSA Felix Sere Fax No.:			
Applicants Signature and Date		ARUBA 19.04.06	

For DCMS use	
Name of Certifying Officer (DCDMS)	Signature and Date
Stanislas F. Mwaungulu	- 19.04.06

For OTP use	
Name of Certifying Officer (STA)	Signature and Date
Webster	20 Apr 2006
Name of Certifying Officer (COP)	Signature and Date
Stephen Rupp COP	20/04/06

For IESS use	
Logon Credential Received	
Logon Account Detail mbaue d	Signature and Date
	21/04/06

49225



International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda



Office of the Prosecutor

2342

EDS ACCESS
APPLICATION FORM

Applicant Name		Applicant Title and Case Name & No.	
Peter Robinson		Lead Counsel, Nzirore case 9844	
Applicant Email Address			
peter@peterrobinson.com			
Application Date	Contract Expiry Date	Telephone No.	ICTR Room No.
16 Mar 2005		5419	S-239
Applicant's Bar Association California			
Name: State Bar of California			
Address: 355 Franklin Street San Francisco, CA 94104			
Tel No.:		Fax No.:	
Bar Association Administrator:			
Applicants Signature and Date		Peter Robinson 16 Mar 2005	

For DCMS use	
Name of Certifying Officer (DCDMS)	Signature and Date
AMINATTA L.R. N'GUM	A Ngum 16/03/05

For OTP use	
Name of Certifying Officer (STA)	Signature and Date
Don WEBSTER	[Signature] 17-Mar-05
Name of Certifying Officer (COP)	Signature and Date
BORGANI MAJOLA	[Signature] 19-03-05

For IESS use	
Logon Credential Received	
Logon Account Detail	Signature and Date
ROBINSON P	[Signature] 22/3/05

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49224



International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda



Office of the Prosecutor

3016

EDS ACCESS
APPLICATION FORM

Applicant Name		Applicant Title and Case Name & No.	
HOUNKPATIN		lead counsel 98-46...	
Applicant Email Address		hounkpatin.chantal@ictm.net	
Application Date	Contract Expiry Date	Telephone No.	ICTR Room No.
22/09/2005		57-60	S255
Applicant's Bar Association Paris			
Name: Chantal HOUNKPATIN Chantal Hounkpartin			
Address: 15 Bd Bonne Nouvelle 75001 Paris			
Tel No.: 0142692634 Fax No.: 0142692634			
Bar Association Administrator: M. Burgu-buru			
Applicants Signature and Date		22/09/2005	

For DCMS use	
Name of Certifying Officer (DCDMS)	Signature and Date
AMINATTA L.R.N'GUM	23/09/05

For OTP use	
Name of Certifying Officer (STA)	Signature and Date
	26 Sept 05
Name of Certifying Officer (COP)	Signature and Date
Stephen Rupp	26/9/05

For IESS use	
Logon Credential Received	
Logon Account Detail hounkpatin	Signature and Date



**TRANSMISSION SHEET
FOR FILING OF DOCUMENTS WITH CMS**

COURT MANAGEMENT SECTION
(Art. 27 of the Directive for the Registry)

49223

I - GENERAL INFORMATION (To be completed by the Chambers / Filing Party)

To:	<input type="checkbox"/> Trial Chamber I N. M. Diallo	<input type="checkbox"/> Trial Chamber II R. N. Kouambo	<input checked="" type="checkbox"/> Trial Chamber III C. K. Hometowu	<input type="checkbox"/> Trial Chamber III A. N'Gum
	<input type="checkbox"/> Chief, CMS J.-P. Fométe	<input type="checkbox"/> Appeals Chamber / Arusha Chamber II F. A. Talon		<input type="checkbox"/> Appeals Chamber / The Hague K. K. A. Afande R. Muzigo-Morrison
From:	<input type="checkbox"/> Chamber (names)	<input type="checkbox"/> Defence (names)	<input type="checkbox"/> Prosecutor's Office Takeh Sendze (names)	<input type="checkbox"/> Other: (names)
Case Name:	The Prosecutor vs. Karemera et al.			Case Number: ICTR-98-44
Dates:	Transmitted: 11 May 2009		Document's date: 11 May 2009	
No. of Pages:	4	Original Language:	<input checked="" type="checkbox"/> English	<input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda
Title of Document:	Inter Office Memo Re: Targeted Rule 68 Disclosure via Electronic Disclosure Suite (EDS)			
Classification Level:	<input type="checkbox"/> Ex Parte <input type="checkbox"/> Strictly Confidential / Under Seal <input type="checkbox"/> Confidential <input checked="" type="checkbox"/> Public			
TRIM Document Type:	<input type="checkbox"/> Indictment <input type="checkbox"/> Warrant <input checked="" type="checkbox"/> Correspondence <input type="checkbox"/> Submission from non-parties <input type="checkbox"/> Decision <input type="checkbox"/> Affidavit <input type="checkbox"/> Notice of Appeal <input type="checkbox"/> Submission from parties <input type="checkbox"/> Disclosure <input type="checkbox"/> Order <input type="checkbox"/> Appeal Book <input checked="" type="checkbox"/> Accused particulars <input type="checkbox"/> Judgement <input type="checkbox"/> Motion <input type="checkbox"/> Book of Authorities			

II - TRANSLATION STATUS ON THE FILING DATE (To be completed by the Chambers / Filing Party)

CMS SHALL take necessary action regarding translation.

Filing Party hereby submits only the original, and **will not submit** any translated version.

Reference material is provided in annex to facilitate translation.

Target Language(s):

English French Kinyarwanda

CMS SHALL NOT take any action regarding translation.

Filing Party hereby submits **BOTH** the original and the translated version for filing, as follows:

Original	in	<input type="checkbox"/> English	<input type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda
Translation	in	<input type="checkbox"/> English	<input type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda

CMS SHALL NOT take any action regarding translation.

Filing Party will be submitting the translated version(s) in due course in the following language(s):

English French Kinyarwanda

KINDLY FILL IN THE BOXES BELOW

<input type="checkbox"/> The OTP is overseeing translation. The document is submitted for translation to: <input type="checkbox"/> The Language Services Section of the ICTR / Arusha. <input type="checkbox"/> The Language Services Section of the ICTR / The Hague. <input type="checkbox"/> An accredited service for translation; see details below: Name of contact person: Name of service: Address: E-mail / Tel. / Fax:	<input type="checkbox"/> DEFENCE is overseeing translation. The document is submitted to an accredited service for translation (fees will be submitted to DCDMS): Name of contact person: Name of service: Address: E-mail / Tel. / Fax:
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III - TRANSLATION PRIORITISATION (For Official use ONLY)

<input type="checkbox"/> Top priority	COMMENTS	<input type="checkbox"/> Required date:
<input type="checkbox"/> Urgent		<input type="checkbox"/> Hearing date:
<input type="checkbox"/> Normal		<input type="checkbox"/> Other deadlines:



United Nations
Nations Unies

TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH CMS

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(Art. 27 of the Directive for the Registry)

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To:	<input type="checkbox"/> Trial Chamber I N. M. Diallo	<input type="checkbox"/> Trial Chamber II R. N. Kouambo	<input checked="" type="checkbox"/> Trial Chamber III C. K. Hometowu	<input type="checkbox"/> Trial Chamber III A. N'Gum
	<input type="checkbox"/> Chief, CMS J.-P. Fomété	<input type="checkbox"/> Appeals Chamber / Arusha Chamber II F. A. Talon		<input type="checkbox"/> Appeals Chamber / The Hague K. K. A. Afande R. Muzigo-Morrison
From:	<input type="checkbox"/> Chamber (names)	<input type="checkbox"/> Defence (names)	<input checked="" type="checkbox"/> Prosecutor's Office Don Webster (names)	<input type="checkbox"/> Other: (names)
	Case Name: The Prosecutor vs. Karemera et al.			Case Number: ICTR-98-44
Dates:	Transmitted: 15 December 2009		Document's date: 15 December 2009	
No. of Pages:	9	Original Language: <input checked="" type="checkbox"/> English <input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda		
Title of Document:	Response to Mr. Peter Robinson's letters of 29 October 2009 and 10 December 2009 concerning renewed Rule 66(B) inspection requests			
Classification Level:		TRIM Document Type:		
<input type="checkbox"/> Ex Parte		<input type="checkbox"/> Indictment	<input type="checkbox"/> Warrant	<input checked="" type="checkbox"/> Correspondence
<input type="checkbox"/> Strictly Confidential / Under Seal		<input type="checkbox"/> Decision	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Notice of Appeal
<input type="checkbox"/> Confidential		<input type="checkbox"/> Disclosure	<input type="checkbox"/> Order	<input type="checkbox"/> Appeal Book
<input checked="" type="checkbox"/> Public		<input type="checkbox"/> Judgement	<input type="checkbox"/> Motion	<input type="checkbox"/> Book of Authorities
		<input type="checkbox"/> Submission from non-parties <input type="checkbox"/> Submission from parties <input type="checkbox"/> Accused particulars		

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Translation	in	<input type="checkbox"/> English	<input type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda

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<input type="checkbox"/> Normal		<input type="checkbox"/> Other deadlines: